

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Matthew Corwin	Team: Squad #10	CCRB Case #: 201809015	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 10/28/2017 6:00 AM	Location of Incident: inside of § 87(2)(b) § 87(2)(b)	Precinct: 71	18 Mo. SOL 4/28/2019	EO SOL 4/28/2019	
Date/Time CV Reported Mon, 10/22/2018 11:01 AM	CV Reported At: IAB	How CV Reported: In-person	Date/Time Received at CCRB Mon, 10/29/2018 11:01 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Charles Arnone	00408	950021	071 PCT
2. Officers			Unknown
3. SGT Joseph Lafata	04931	935150	INT CIS
4. An officer			ESU

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. INS Norman Grandstaff	00000	922445	PBBS
2. POM Maximillia Gardner	04535	952766	PBBS
3. POM Christophe Maccarone	08142	956054	071 PCT
4. POM David Viglione	12761	956319	071 PCT
5. POM Danny Chan	15201	955806	071 PCT
6. POM Laurence Eng	22228	952710	071 PCT
7. POM Frank Beers	17641	945498	071 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Charles Arnone	Abuse: Police Officer Charles Arnone entered § 87(2)(b) § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B. An officer	Force: An officer used physical force against § 87(2)(b)	§ 87(2)(b)
C.SGT Joseph Lafata	Abuse: Sergeant Joseph Lafata refused to show the search warrant to § 87(2)(b)	§ 87(2)(b)
D. Officers	Abuse: Officers refused to show the search warrant to § 87(2)(b) § 87(2)(b)	§ 87(2)(b)
E.SGT Charles Arnone	Abuse: Police Officer Charles Arnone searched § 87(2)(b) § 87(2)(b) in Brooklyn.	§ 87(2)(b)
F. Officers	Abuse: Officers damaged § 87(2)(b)'s property.	§ 87(2)(b)
G.SGT Charles Arnone	Abuse: Police Officer Charles Arnone seized § 87(2)(b) § 87(2)(b)'s property.	§ 87(2)(b)
H. Officers	Abuse: Officers damaged § 87(2)(b) § 87(2)(b)'s property.	§ 87(2)(b)

## Case Summary

On October 22, 2018, § 87(2)(b) made the following complaint to IAB at 315 Hudson Street as Original Log #2018-41401. It was referred to the CCRB on October 30, 2018 as referral #2018-41780.

At approximately 6:00 a.m. on October 28, 2017, Police Officer Charles Arnone, of the 71<sup>st</sup> Precinct (he has since been promoted to Sergeant), along with other officers from the 71<sup>st</sup> Precinct executed a search warrant and forcibly entered § 87(2)(b) § 87(2)(b) with the assistance of Emergency Service Unit (ESU) officers. Unidentified ESU officers entered § 87(2)(b) § 87(2)(b)'s bedroom, pointed guns at him, and handcuffed him. **(Allegation A: Abuse of Authority: Entry of Premises: § 87(2)(g))**

An unidentified ESU officer also entered the bedroom where § 87(2)(b) and § 87(2)(b) § 87(2)(b) were sleeping and allegedly kicked § 87(2)(b) in the groin **(Allegation B: Force: Physical Force: § 87(2)(g))**. § 87(2)(b) and § 87(2)(b) § 87(2)(b) were handcuffed and brought to the living room.

Sergeant Joseph Lafata, of Intel Criminal Section, then entered § 87(2)(b) § 87(2)(b)'s bedroom and § 87(2)(b) § 87(2)(b) asked him to see the search warrant. Sgt. Lafata allegedly said that he did not have to show a search warrant **(Allegation C: Abuse of Authority: Refusal to Show Search Warrant: § 87(2)(g))**. § 87(2)(b) § 87(2)(b) § 87(2)(b) asked every officer he saw to see a search warrant and allegedly none of the officers responded **(Allegation D: Abuse of Authority: Refusal to Show Search Warrant: § 87(2)(g))**.

§ 87(2)(b) § 87(2)(b) and § 87(2)(b) § 87(2)(b) were arrested for criminal use of drug paraphernalia and taken to the 71<sup>st</sup> precinct stationhouse. PO Arnone and other officers then searched the apartment **(Allegation E: Abuse of Authority: Search of Premises: § 87(2)(g))**

Later that day, § 87(2)(b) and § 87(2)(b) § 87(2)(b) were released with Desk Appearance Tickets. When they came back to their apartment, § 87(2)(b) § 87(2)(b) observed damage to his front door. He also observed a broken bed leg, a broken bed drawer, and a couch frame that was bent **(Allegation F: Abuse of Authority: Property Damaged: § 87(2)(g))**. § 87(2)(b) § 87(2)(b)'s high school diploma and social security card were seized **(Allegation G: Abuse of Authority: Seizure of Property: § 87(2)(g))**. § 87(2)(b) § 87(2)(b) also observed broken liquor glasses, a broken microphone stand, and a rip in the bottom of his couch **(Allegation H: Abuse of Authority: Property Damaged: § 87(2)(g))**.

No video of the incident was obtained by the investigation.

## Findings and Recommendations

**Allegation A – Abuse of Authority: Police Officer Charles Arnone entered § 87(2)(b) § 87(2)(b) in Brooklyn.**

**Allegation E – Abuse of Authority: Police Officer Charles Arnone searched § 87(2)(b) § 87(2)(b) in Brooklyn.**

**Allegation G – Abuse of Authority: Police Officer Charles Arnone seized § 87(2)(b) § 87(2)(b)s property.**

It is undisputed that on October 28, 2017, PO Charles Arnone and other officers entered and searched § 87(2)(b) § 87(2)(b) in Brooklyn with the assistance of ESU.

In his telephone statement, given on November 07, 2019 (**Board Review 01**) and his verified statement, given on November 21, 2018 (**Board Review 02**), § 87(2)(b) stated that when ESU officers entered his bedroom, they pointed their guns at him. He also stated that when he returned to his apartment from the 71<sup>st</sup> precinct stationhouse, he noticed damage to the front door. The door was off of its frame and the lock was broken. § 87(2)(b) also could not find his son's high school diploma and social security card after the incident. Property vouchers prepared by PO Arnone show that the high school diploma and other paper documents were seized (**Board Review 03**).

Search warrant § 87(2)(b), issued by the Honorable § 87(2)(b) of Kings County, on § 87(2)(b) authorized a no-knock entry of the incident location between the hours of 6:00 a.m. and 9:00 p.m. without prior notice, for officers to enter and search the incident location for § 87(2)(b) a firearm, ammunition, documents relating to the ownership and recent occupation of the location; any safes or locked containers; any computer hardware, computer software, cellular phones and any written record reflecting the passwords or encryption pass phrase of used to secure or limit access to the computers or cellular phones. This warrant was requested by PO Arnone (**Board Review 04**).

Article 690.50 of the Criminal Procedure Law permits officers who have obtained a valid no-knock search warrant to forcibly enter the location without prior notice, and may use as much physical force, other than deadly physical force, as is necessary to execute the warrant (**Board Review 05**).

Article 690.10 of the Criminal Procedure Law states that personal property is subject to seizure pursuant to a search warrant if there is reasonable cause to believe that it constitutes evidence or tends to demonstrate that a particular person participated in the commission of an offense (**Board Review 06**).

A § 87(2)(b)s description of the officers pointing guns during the initial entry was consistent with the standard procedure for executing a no-knock search warrant and not gratuitous, his gun pointed allegation was subsumed within the entry.

§ 87(2)(g)  
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\_\_\_\_\_.

**Allegation B – Force: An officer used physical force against § 87(2)(b)**

**Allegation D – Abuse of Authority: Officers refused to show the search warrant to § 87(2)(b)**

§ 87(2)(b)

**Allegation H – Abuse of Authority: Officers damaged § 87(2)(b) § 87(2)(b) s property.**

On December 05, 2018 § 87(2)(b) § 87(2)(b) and § 87(2)(b) provided statements over the course of the same phone call (**Board Review 07**). On January 17, 2019, PO Arnone provided a statement at the CCRB (**Board Review 08**) and on February 01, 2019, Sgt. Lafata provided a statement (**Board Review 09**).

In his sworn statement, § 87(2)(b) stated that days after the incident, § 87(2)(b) told him that an officer had kicked him in the chest and tackled him. § 87(2)(b) did not see this himself.

In his phone statement, § 87(2)(b) § 87(2)(b) stated he witnessed an officer kick § 87(2)(b) in the groin. § 87(2)(b) § 87(2)(b) generally stated that he asked every officer he interacted with to see a search warrant and none of them showed him a search warrant. He also stated that when he got home from the 71<sup>st</sup> Precinct stationhouse he observed broken liquor glasses, a broken microphone stand, and a rip to the bottom of the couch in his bedroom.

In his phone statement, § 87(2)(b) stated that an officer entered the room he and § 87(2)(b) § 87(2)(b) were sleeping in and kicked him in his groin and pushed him to the ground. He stated that he never asked to see a search warrant and did not mention hearing § 87(2)(b) § 87(2)(b) ask for one or mention the damage described by § 87(2)(b) § 87(2)(b).

PO Arnone denied seeing any officer kick § 87(2)(b) and did not hear § 87(2)(b) mention being in pain during the incident. PO Arnone did not recall hearing § 87(2)(b) § 87(2)(b) ask to see a search warrant and he denied taking part in or witnessing the damage described by § 87(2)(b) § 87(2)(b).

Sgt. Lafata denied seeing any officer kick § 87(2)(b) and did not hear § 87(2)(b) mention being in pain during the incident. He denied hearing § 87(2)(b) § 87(2)(b) ask to see a search warrant and he denied taking part in or witnessing the damage described by § 87(2)(b) § 87(2)(b).

§ 87(2)(b) and § 87(2)(b) § 87(2)(b) both missed two scheduled CCRB interviews without informing the investigation beforehand or giving a reason why they missed. Missed appointment letters were sent to each of them and the investigation has not received a response. § 87(2)(b), § 87(2)(g)

**Allegation C – Abuse of Authority: Sergeant Joseph Lafata refused to show the search warrant to § 87(2)(b)**

In his statements, § 87(2)(b) consistently stated that after the entry, he generally requested to see the search warrant multiple times. When he specifically asked Sgt. Lafata to see the search warrant, Sgt. Lafata said that because they were executing a no-knock search warrant, he did not need to show § 87(2)(b) one. § 87(2)(b) did not describe other officers being around during this conversation.

In his statement, § 87(2)(b) stated that he overheard § 87(2)(b) ask for a search warrant. He was unable to describe the specific officer or officers § 87(2)(b) asked, but he never saw an officer show him one. He also was never shown a search warrant, himself.

In his statement, § 87(2)(b) did not mention hearing § 87(2)(b) ask for a search warrant. He did not ask to see a search warrant himself and he was not shown one.

In his statement, PO Arnone stated that he had the copy of the search warrant with him. He kept the search warrant in his “search box.” As the arresting officer, PO Arnone asked each individual for their identification, but did not recall any other details of these conversations. § 87(2)(b) asked PO Arnone why the officers were there and PO Arnone explained that they had a search warrant. He did not recall if § 87(2)(b) asked him, Sgt. Lafata, or any other officers to see a search warrant. There were no special circumstances that would have prevented him or any other officer from showing the search warrant. PO Arnone did not refuse to show the search warrant and did not recall hearing any officer refuse to show it. PO Arnone did not recall if the search warrant was ever shown to any of the individuals.

In his statement, Sgt. Lafata stated that he did not interact with or speak to the three civilians. He did not hear any of the civilians request to see the search warrant. Sgt. Lafata denied ever telling § 87(2)(b) that he did not have to show him the warrant because it was a no-knock warrant. He did not recall where the “search box,” which contained the search warrant, was during the incident, but he said it was on scene and it would have been PO Arnone’s responsibility to monitor the search warrant and search box. Sgt. Lafata did not recall if the search warrant ever was taken out of the “search box.”

While PO Arnone was responsible for keeping the search warrant, the allegation is being pleaded against Sgt. Lafata both because he was PO Arnone’s supervisor during this incident and also because § 87(2)(b) alleged that Sgt. Lafata specifically refused to show the warrant.

§ 87(2)(b), § 87(2)(g)

**Allegation F – Abuse of Authority: Officers damaged § 87(2)(b) s property.**

In his verified statement, § 87(2)(b) stated that when he returned home after being released, he observed that one of the legs on his bed was broken and one of the drawers of his son’s bed was broken. The frame of his couch was also bent.

§ 87(2)(b) § 87(2)(b) stated that when he got home, the house was “a mess.” He observed damaged property, but did not mention the specific damage that § 87(2)(b) described.

§ 87(2)(b) did not make any allegations of property damage and did not mention the damage described by § 87(2)(b)

PO Arnone denied taking part in or witnessing any of the damage § 87(2)(b) alleged.

Sgt. Lafata denied taking part in or witnessing any of the damage § 87(2)(b) alleged.

§ 87(2)(b), § 87(2)(g)

### Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) is a party (**Board Review 10**).
- This is the first CCRB complaint to which § 87(2)(b) is a party (**Board Review 11**).
- This is the first CCRB complaint to which § 87(2)(b) is a party (**Board Review 12**).
- PO Arnone has been a member of service for seven years. He has been the subject in seven cases and 18 allegations, of which one was substantiated.
  - Case 201307172 involved a substantiated allegation of Abuse-Vehicle search against PO Arnone. The Board recommended Command Discipline and the NYPD imposed Command Discipline –A.
  - § 87(2)(g)
- Sgt. Lafata has been a member of service for 14 years. He has been the subject in 15 cases and 27 charges, of which one has been substantiated.
  - Case 201101753 involved a substantiated allegation of Abuse –Premises entered and/or searched. The Board recommended Command Discipline and the NYPD imposed instructions.
  - § 87(2)(g)

### Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- § 87(2)(b)
- According to the Office of Court Administration, § 87(2)(b) has no history of convictions in New York City (**Board Review 14**).
- According to the Office of Court Administration, § 87(2)(b) has no history of convictions in New York City (**Board Review 15**).
- A request for any Notice of Claim regarding this incident has been submitted to the New York City Comptroller's Office, and the results will be added to the case file upon receipt.

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Squad No.: 10

Investigator: \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date